

I. PARTIES

1. Plaintiff the State of Texas is represented by Harris County Attorney Vince Ryan. The State is exempt from bond and court costs. Tex. Civ. Prac. & Rem. Code § 6.001.
2. Defendant Sun Ling Fang is the owner and manager of 14437 Massage Spa located at 14437 Bammel N. Houston Road, Houston, Texas. This defendant may be served at 14437 Massage Spa at 14437 Bammel N. Houston Road, Houston, Texas 77014 or wherever she may be found.
3. Defendant 14437 Massage Spa is owned and managed by Defendant Sun Ling Fang and may be served by serving Sun Ling Fang at 14437 Massage Spa at 14437 Bammel N. Houston Road, Houston, Texas 77014. 14437 Massage Spa is an unincorporated entity, unregistered partnership, or sole proprietorship doing business at 14437 Bammel N. Houston Road, Houston, Texas 77014 in Harris County, Texas under the name 14437 Massage Spa. Defendant has not filed an assumed name certificate, nor has Defendant designated a registered agent for service of process. The true name shall be substituted at a later date. Tex. R. Civ. P. 28.
4. Defendant W Chos LP is the owner of the Real Property Known As 14437 Bammel N. Houston Road, Houston, Texas and may be served with process by serving its registered agent Anngreen International Corporation at 7324 S.W. Freeway, Suite 888, Houston, Texas 77074 .
5. Defendant The Real Property Known As 14437 Bammel N. Houston Road, Houston, Texas, is located in Harris County, Texas. The State brings this suit in rem, under Tex. Civ. Prac. & Rem. Code § 125.002. Defendant W Chos LP is the record owner of the Real Property Known as 14437 Bammel N. Houston Road, Houston, Texas and can be served by serving its registered agent, Anngreen International Corporation at 7324 S.W. Freeway, Suite 888, Houston, Texas 77074.

II. DISCOVERY CONTROL PLAN

6. Plaintiff intends to conduct discovery under Level 2 of Texas Rule of Civil Procedure 190.3 and affirmatively pleads that this case is not governed by the expedited-actions process in Texas Rule of Civil Procedure 169 because the relief sought includes non-monetary injunctive relief.

III. JURISDICTION AND VENUE

7. This Court has subject matter and personal jurisdiction under Tex. Civ. Prac. & Rem. Code §§ 125.001-125.047 and § 17.47 and § 17.48 of the Texas Deceptive Trade Practices Consumer Protection Act, Tex. Bus. & Com. Code §§ 1741-1763 (“DTPA”), upon the grounds that Defendants have engaged in false, deceptive and misleading acts and practices in the course of trade and commerce as defined in, and declared unlawful by, § 17.46(a) and (b) of the DTPA.

8. Venue is mandatory in Harris County under Tex. Civ. Prac. & Rem. Code § 125.002(a) as the common nuisance in issue, 14437 Massage Spa at 14437 Bammel N. Houston Road is located in Houston, Harris County, Texas. In addition, the transactions forming the basis of this suit occurred in Harris County, Texas. § 17.47(b).

IV. PUBLIC INTEREST AND NOTICE

9. Plaintiff has reason to believe that Defendants have engaged in, and will continue to engage in the unlawful practices set forth in this petition.

10. Plaintiff has reason to believe Defendants have caused and will cause immediate, irreparable injury, loss and damage to the State of Texas by operating an unlicensed, illicit, massage establishment for the purposes of prostitution and other criminal activity. Therefore, these proceedings are in the public interest. *See* DTPA § 17.47(a).

11. The conduct of Defendants in holding themselves out as a massage establishment when, in fact, 14437 Massage Spa is a front for Prostitution and other criminal activity, constitutes a common nuisance as defined by Texas Civil Practice and Remedies Code § 125.0015, and is a danger to the public. Defendants knowingly tolerate this activity and fail to make reasonable attempts to abate the activity. Therefore, Defendants' conduct is subject to abatement under Section 125 of the Code.

12. Pre-suit notice is not required under DTPA § 17.47(a) because there is good cause to believe that such an emergency exists—due to the seriousness of the allegations and the danger to public health and safety—that immediate and irreparable injury, loss, or damage would occur as a result of delay. Further, such pre-suit notice is not required because there is good cause to believe, due to the illegal business practices at 14437 Massage Spa that destruction of relevant records would occur.

V. TRADE AND COMMERCE

13. At all times described below, Defendants and their agents have engaged in conduct constituting “trade” and “commerce,” defined in § 17.45(6) of the DTPA, as follows:

“Trade” and “commerce” mean the advertising, offering for sale, sale, lease, or distribution of any good or service, of any property, tangible or intangible, real, personal, or mixed, and any other article, commodity, or thing of value, wherever situated, and shall include any trade or commerce directly or indirectly affecting the people of this state.

14. Whenever in this petition it is alleged that Defendants did any act, it is meant that

(a) the named Defendants performed or participated in the act, or

(b) the named Defendants' officers, successors in interest, agents, partners, trustees or employees performed or participated in the act on behalf of and under the authority of one or more of the Defendants.

VI. FACTUAL BACKGROUND

A. *The Sex Trafficking Crisis in Harris County, Texas.*

15. The Houston/Harris County area is known as a hub for sex trafficking in the United States. Several factors make this area more conducive to sex trafficking including:

- Harris County's large population and geographic size.
- Three major interstate highways intersecting Houston and connecting to the Mexican border.
- Large international airports and one of the busiest international ports in the US.
- Ethnic diversity enabling victims and perpetrators of trafficking to easily blend in.¹

16. Sex trafficking occurs when a commercial sex act is induced by force, fraud, or coercion. Except, proof of force, fraud, or coercion is not required if the person induced to perform the commercial sex act is younger than 18 years of age. Tex. Penal Code §§ 20A.01 et seq.

17. The majority of sex trafficked victims are female and include both domestic individuals and migrants from other countries.² Migrants from other countries who are ultimately sex-trafficked may immigrate in the belief that they will find legal employment in the U.S., only to end up under the control of sex traffickers and being forced or coerced into prostitution.³ Some immigrate with the knowledge that they will be employed in the sex industry, but unexpectedly find themselves working in exploitative, abusive conditions in the U.S.⁴ Victims of trafficking into prostitution are particularly vulnerable to coercion and abuse, whether physical, sexual, or

¹ Erika Anderson, *Combatting Human Trafficking in Harris County: An Interview with Harris County Sheriff Adrian Garcia*, *Hous. Law.* 24, 25 (2012).

² "The Sex Trafficking Marketplace: Addressing Demand through Legislation and Tactics." Children at Risk and The Texas Bar Foundation, 2015, <http://childrenatrisk.org/publications-all/>.

³ Id.

⁴ Id.

psychological, from their traffickers.⁵ Individuals trafficked into the U.S. from other countries often fear the possibility of arrest and deportation, which can prevent them from contacting law enforcement.⁶

18. The top venue for sex trafficking in Houston is illicit massage/spa businesses followed closely by hotel/motel based locations.⁷ Illicit massage businesses (“IMBs”) advertise themselves as legitimate businesses, often located in strip shopping centers, but they derive their clientele and revenue through the provision of commercial sex acts.⁸ IMB’s often operate in violation of other state and federal laws that prohibit money laundering, visa and immigration fraud, smuggling and tax evasion.⁹ Although they appear to be single storefronts, most IMBs are controlled as part of larger networks with one to three people owning several businesses at a time.¹⁰ The victims of sex trafficking in illicit massage businesses are primarily women in their mid-thirties to late fifties from China and South Korea.¹¹

19. A recent study published in the Journal of Human Trafficking analyzed the IMB industry in Houston in 2016 and found that there are approximately 2,869 customers per day at illicit massage businesses in Houston and that this yields total annual gross revenues of \$107 million.¹²

B. Texas Law Prohibits Unlicensed Massage Establishments.

⁵ Id.

⁶ Id.

⁷ “Top Venues/Industries for Sex Trafficking,” National Human Trafficking Hotline, <https://humantraffickinghotline.org/state/texas>. Last update June 30, 2017.

⁸ Id.

⁹ Id.

¹⁰ “The Typology of Modern Slavery: Defining Sex and Labor Trafficking in the United States,” Polaris Project, <http://polarisproject.org/sites/default/files/Polaris-Typology-of-Modern-Slavery.pdf>, Web. March 2017.

¹¹ Id., p. 13.

¹² Bouche, Vanessa and Crotty, Sean, “Estimating Demand for IMBs in Houston,” *Journal of Human Trafficking* (2017):7.TANDFONLINE. Web. Sept. 2017.

20. The Texas Legislature recognizes the significant threat to public health and safety caused by the IMB industry. Chapter 455 of the Texas Occupations Code requires all massage establishments and massage therapists to obtain valid licenses to operate pursuant to state massage therapy laws. Tex. Occ. Code §§ 455.001-455.352, et seq. Individuals who knowingly violate this section of the Code are subject to criminal penalties. Tex. Occ. Code 455.352.

21. Furthermore, in 2017, state lawmakers added a section to the Texas Property Code intended to make it easier for commercial property owners to recover possession of their leased premises from tenants who are using the space for prostitution or human trafficking. Tex. Prop. Code § 93.013.

C. Defendants Operate an Illicit Massage Business at 14437 Massage Spa.

22. 14437 Massage Spa holds itself out as a massage establishment as defined under the Texas Occupations Code § 455.001(5). “Other massage services” is defined in § 455.001(11) and includes any services offered for compensation that involves physical contact with a client. Despite this, 14437 Massage Spa does not possess a license to operate a massage establishment as required by § 455.151 of the Texas Occupations Code. Defendant Sun Ling Fang is the apparent owner/manager of 14437 Massage Spa.

23. In addition to operating as an unlicensed massage establishment, investigations by the vice officers with the Human Trafficking Unit of the Harris County Sheriff’s Office resulted in arrests of employees of 14437 Massage Spa for engaging in prostitution and other unlawful activities at 14437 Massage Spa. Specifically, the following violations have occurred on the premises of 14437 Massage Spa:

- On November 10, 2017, officers with the Criminal Intelligence Unit of the HCSO conducted a pro-active nuisance abatement investigation at 14437 Massage Spa as a

result of previous arrests of employees for prostitution and massage violations at the spa.

The suspect in question was the owner of the spa, Sun Ling Fang.

- On October 25, 2017, vice officers with the HCSO arrested two female employees of 14437 Massage Spa for operating a massage establishment without a license and employing an unlicensed massage therapist. The employees arrested were Sun Ling Fang and Chunxiang Wei.
- On August 9, 2017, vice officers with the HCSO conducted an undercover investigation at 14437 Massage Spa to check for valid massage establishment and therapist licenses. The officers did not find any Massage Therapist or Massage Establishment licenses displayed at 14437 Massage Spa.
- On June 22, 2017, vice officers with the HCSO arrested two female employees of 14437 Massage Spa for prostitution and operating an unlicensed massage establishment. The employees arrested were Sun Ling Fang and Youlu Rong.
- On July 7, 2015, vice officers with the HCSO arrested two female employees of 14437 Massage Spa for prostitution. The employees arrested were Yu Jia Lin and Sun Ling Fang.
- On October 13, 2014, vice officers with the HCSO arrested two female employees of 14437 Massage Spa for prostitution. The employees arrested were Lai Sheung Wong and Guo Ying Jiang.

24. Sun Ling Fang and/or 14437 Massage Spa rents the property located at 14437 Bammel N. Houston Road from Defendant W Chos LP. This means W Chos LP is likely receiving rent derived from the illegal business operations of their tenant, 14437 Massage Spa.

D. Defendant 14437 Massage Spa Engages in Deceptive Trade Practices.

25. Sun Ling Fang and 14437 Massage Spa are engaging in deceptive trade practices within the meaning of Tex. Bus. & Com. Code §17.46 et seq. A person violates the Deceptive Trade Practices Act (DTPA) if they own, operate, maintain and/or advertise a massage establishment, as defined by Chapter 455 of the Texas Occupations Code, that is not appropriately licensed under the Code, or is not in compliance with licensing and other requirements of that chapter, or is not in compliance with local ordinances relating to the licensing or regulation of massage establishments. Tex. Bus. & Comm. Code §17.46(b)(33)(A) and (B).

26. 14437 Massage Spa frequently advertises its services on sexually explicit websites using photos of young Asian women in lingerie in provocative poses.

VII. COMMON NUISANCE: TEX. CIV. PRAC. & REM. CODE §§ 125.001–125.047

27. Plaintiffs incorporate and adopt by reference the allegations contained in each and every preceding paragraph of this petition.

28. Chapter 125 of the Texas Civil Practice & Remedies Code defines a common nuisance. Section 125.0015(a) states “[a] person who maintains a place to which persons habitually go for [certain] purposes and who knowingly tolerates the activity and furthermore fails to make reasonable attempts to abate the activity maintains a common nuisance.” The purposes that give rise to a common nuisance include violations of the massage licensing regulations, prostitution and trafficking of persons. Tex. Civ. Prac. & Rem. Code § 125.0015(a)(6),(18).

29. 14437 Massage Spa located at 14437 Bammel N. Houston Road, Houston, Texas, is knowingly maintained as an unlicensed massage establishment where prostitution and other nuisance crimes are committed. As such, the property constitutes a common nuisance as defined by Section 125.0015(a) of the Texas Civil Practice & Remedies Code.

30. The general reputation of 14437 Massage Spa will also show the existence of this common nuisance. Tex. Civ. Prac. & Rem. Code § 125.004(c). 14437 Massage Spa is known as a place where prostitution occurs. They frequently advertise their services on sexually explicit websites using photos of young women in lingerie in provocative poses.

31. The frequency of the violations described above is prima facie evidence that the Defendants collectively and knowingly tolerate an unlicensed massage establishment, prostitution, and promotion of prostitution. Tex. Civ. Prac. & Rem. Code § 125.004(a).

32. In keeping with Tex. Civ. Prac. & Rem. Code § 125.002(h), Plaintiff considered the failure of Defendants to promptly notify the appropriate law enforcement agencies of the occurrence of criminal acts at 14437 Massage Spa and their failure to cooperate with law enforcement investigations of criminal acts at 14437 Bammel N. Houston Road, Houston, Texas.

VIII. VIOLATIONS OF THE DTPA: TEX. BUS. & COM. CODE §§ 17.41–17.63

33. Plaintiffs incorporate and adopt by reference the allegations contained in each and every preceding paragraph of this petition.

34. Defendant 14437 Massage Spa as alleged and detailed above, has in the conduct of trade and commerce, engaged in false, misleading, or deceptive acts or practices in violation of § 17.46(a) of the Texas Business and Commerce Code.

35. Additionally, the defendants, in the course and conduct of trade and commerce, have directly or indirectly engaged in false, misleading, and deceptive acts and practices declared to be unlawful by the DTPA by owning, operating, maintaining, or advertising a massage establishment, as defined by Section 455.001, Occupations Code, that:

(A) is not appropriately licensed under Chapter 455, Occupations Code, or is not in compliance with the applicable licensing and other requirements of that chapter; or

(B) is not in compliance with an applicable local ordinance relating to the licensing or regulation of massage establishments. Tex. Bus. & Com. Code Ann. § 17.46.

IX. REQUEST FOR TEMPORARY RESTRAINING ORDER

36. Plaintiff seeks a temporary restraining order (“TRO”) and requests the Court execute a TRO enjoining Defendants from maintaining or participating in the common nuisance described herein.

37. Plaintiff requests the Court enjoin Defendants immediately from operating, or from allowing operation of 14437 Massage Spa or any illicit massage establishment at 14437 Bammel N. Houston Road, Houston, Texas, for the duration of a TRO or until further order of the Court. An order of closure is the only remedy reasonably likely to prevent the use of the Property as a common nuisance pending further hearing. Plaintiff contends harm is imminent because of continuing criminal activity over the last three years. The operator of this illicit business and the owner of the property have demonstrated they will continue the illegal activity even after arrests have been made.

38. The harm resulting from continued operation of the 14437 Massage Spa includes danger to the safety and welfare of the community. 14437 Bammel N. Houston Road is located in a shopping center near restaurants and churches. The facts noted above show the ongoing criminal activity will cause irreparable injury in that the damages cannot be measured by any certain pecuniary standard. Because of the ongoing illegal activity, an ex parte TRO is warranted to prevent continuing harm to the community which would occur should the Court require service of a lawsuit and notice of hearing. Plaintiff is seeking injunctions based on statute and is not required to prove it has no adequate remedy at law.

39. Plaintiff will likely succeed after trial on the merits because the evidence of criminal activity occurring on these Property constitutes a showing of a common nuisance within the meaning of Chapter 125 of the Texas Civil Practice and remedies Code.

40. Plaintiff requests any other reasonable requirements to prevent the ongoing nuisance activity at 14437 Bammel N. Houston Road, Houston, Texas, in accordance with Chapter 125.002(b)(e).

41. Plaintiff requests the Court order Defendants preserve all documents and items relating to the ownership of 14437 Massage Spa or rental/lease of property to that business during the period January 1, 2014 to the present.

X. REQUEST FOR TEMPORARY AND PERMANENT INJUNCTIVE RELIEF

42. 14437 Massage Spa at 14437 Bammel N. Houston Road, Houston, Texas is knowingly maintained as an unlicensed massage establishment where prostitution and other nuisance crimes are committed. Defendant Sun Ling Fang operates 14437 Massage Spa without a valid license issued by the state and she promotes prostitution and participates in prostitution crimes on the premises. As such, the property constitutes a common nuisance as defined by Section 125.0015(a) of the Texas Civil Practice & Remedies Code.

43. Defendants have failed or refused to abate the nuisance and are likely to continue to maintain the property as a common nuisance unless restrained by an injunctive order of the Court. Unless the Defendants are enjoined from maintaining the property as a common nuisance, the citizens of Harris County, Texas will suffer irreparable harm. The State of Texas has no other adequate remedy at law to prevent the continued maintenance of the property as a common nuisance.

44. Consequences of the above-described unlawful activities at the property, as well as the foreseeable resulting criminal activity associated with these acts, would proximately cause a person of ordinary sensibilities to be substantially frightened, discomforted, annoyed, and inconvenienced in the use of any premises surrounding the property.

45. The State requests a temporary injunction. After notice and a hearing if the Court determines that the State is likely to succeed on the merits, the Court shall order reasonable requirements to prevent the use and maintenance of the place as a nuisance and require the defendants to execute a bond. Tex. Civ. Prac. & Rem. Code Ann. § 125.045(a). The bond must be payable to the STATE OF TEXAS at Harris County; be in the amount set by the Court, but no less than \$5,000 nor more than \$10,000; have sufficient sureties approved by the Court; and be conditioned that the Defendant will not knowingly allow a common nuisance to exist at that place.

46. If the Defendants violate any condition of the bond or any injunctive order of this Court, the Harris County Attorney Vince Ryan shall sue on the bond in the name of the State. Upon a showing of a violation of any condition of the bond or injunctive order, the whole sum of the bond, plus cost and attorney fees, should be ordered forfeited to Harris County, Texas, the originating entity. Subsequent to the bond forfeiture, the Court shall order the place where the nuisance exists closed for one year from the date of the order of bond forfeiture. Tex. Civ. Prac. & Rem. Code § 125.003(a) & (b). In addition, the Court may impose the laundry list of sanctions under § 125.045(b); including cutting off utilities to the place, revoking the occupancy permit, prohibiting access through public streets or alleys, limiting hours of operation, ordering termination of the tenant's lease, or any other legal remedy available under the laws of Texas.

47. Additionally, the State seeks permanent injunctive relief. If final judgment favors the State, the Court shall grant a permanent injunction ordering the Defendants to abate the nuisance and be forever enjoined from maintaining or participating in the common nuisance existing on the property. The Court may include in its order reasonable requirements to prevent the use or maintenance of the place as a nuisance.

48. A person who violates a temporary or permanent injunctive order is subject to the following sentences for civil contempt:

- a. fine of not less than \$1,000 or more than \$10,000;
- b. confinement in jail for a term of not less than 10 or more than 30 days;
- c. both a fine and confinement. Tex. Civ. Prac. & Rem. Code § 125.002(d).

XI. ATTORNEY'S FEES

49. To litigate this case, it was necessary for the State of Texas to secure the services of Harris County Attorney Vince Ryan's Office. Pursuant to Tex. Civ. Prac. & Rem. Code Ann. §125.003, the State requests that defendants be adjudged jointly and severally liable for the Harris County Attorney's reasonable attorney fees, investigative costs, witness fees, court costs, and any other reasonable expenses incurred in bringing this lawsuit.

XII. VERIFICATION

50. A plaintiff- petitioner is not required to verify the allegations set forth in this petition, nor show any proof of personal injury by the acts complained herein. Tex. Civ. Prac. & Rem. Code § 125.002(a).

XIII. REQUEST FOR DISCLOSURE

51. Plaintiff requests that the defendants disclose, within 50 days of service of this request, the information or material described in Tex. R. Civ. P. 194.2

PRAYER

WHEREFORE, PREMISES CONSIDERED, The State of Texas prays this Court grant judgment in favor of Plaintiff for temporary restraining order and temporary and permanent injunction ordering these Defendants to abate the nuisance they are maintaining at 14437 Bammel N. Houston Road, Houston, Texas and issue a judgment *in rem* against the Premises ordering it closed for one year. Further, Plaintiff prays for costs of court, reasonable attorney's fees, investigative costs, witness fees, and such other and further relief to which Plaintiff may be justly entitled.

Respectfully submitted,

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/s/ Julie Countiss

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